

DS129855

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES DISTRICT COURT  
NORTHERN DIST. OF TX  
FILED

2020 JUN -8 PM 3:03

CLERK OR

**FISSEHA GEZU,**

***Plaintiff,***

**v.**

**CHARTER COMMUNICATIONS,**

***Defendant.***

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**CIVIL ACTION NO.**

**3-20CV1476-G**

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**PLAINTIFF'S ORIGINAL COMPLAINT AND JURY DEMAND**

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**TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:**

**PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff Fisseha Gezu is an individual who resides in Dallas County, Texas.
2. Defendant Charter Communications is a Delaware corporation with its principal place of business in St. Louis, Missouri. Defendant may be served through serving its Garland's place of business at 934 East Centerville Road, Garland, TX 75041 or its registered agent for service of process in Texas, Corporation Service Company d/b/a CSC – Lawyers Inco at the following address: 211 E. 7th Street, Suite 620, Austin, Texas 78701.
3. Defendant is an employer within the meaning of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.*, and the Civil Rights Act of 1866, as amended, 42 U.S.C. § 1981.
4. This Court has jurisdiction to hear the merits of the claims under 28 U.S.C. § 1331.
5. Venue is proper in the district and division under 28 U.S.C. § 1391(b).

## **I. FACTUAL BACKGROUND**

6. I first began working for Time Warner Cable now named Charter Communications (“Charter” or “Company”) on or about December 7, 2007.
7. For the duration of my employment, I always gave my best efforts to the company and its customers.
8. I had every intention of being able to work for Charter through the time of my retirement.
9. Unfortunately, Charter and its employees harbored a discriminatory environment.
10. Charter treated me differently than similarly situated employees based on my race and national origin.
11. I was referred to as an immigrant in meetings and was often subjected to defamatory and derogatory bullying, stereotyping, belittling, name calling, racist noises, gestures and insults with anti-immigrant sentiments.
12. Moreover, I was denied promotions due to my race and national origin.
13. However, employees who had significantly less experience, less education and seniority were promoted over me.
14. On or about March 1, 2018, I made a complaint to my supervisor, Jason Ashcraft, and other employees regarding the stereotyping, belittling, name calling, racist noises, gestures and insults.
15. However, Charter failed to investigate and to take prompt remedial action.
16. On or about April 17, 2018, at the beginning of a safety presentation, I made a public complaint concerning the discrimination and harassment I was experiencing in the workplace.

17. Several managers, including Human Resources, were present for my presentation and became well aware of both my concerns and complaint.
18. Instead of investigating and taking prompt remedial action, my manager, Rip Bollman, confronted me concerning my safety presentation.
19. Unfortunately, Charter continued to discriminate and harass me through mocking and inappropriate comments.
20. For instance, at the Company's Christmas Party on December 19, 2018, Ricardo Valierra stated, "I'm going to give you a shitty one" as I was in line to get food.
21. Many employees overheard Mr. Valierra's unacceptable comment.
22. This was one of many examples of how I was treated differently than other employees.
23. Another example is when I was given a final warning for conduct for which no other employee was reprimanded.
24. A few days later, I sent an email to Human Resources Vickie Legros to report discrimination and requested that my final warning be reconsidered.
25. On or about March 3, 2019, I asked Mr. Ashcraft if he had written up any other technicians for meter usage. Mr. Ashcraft responded, "You are the only person who have gotten written up for meter usage."
26. On or about March 10, 2019, Curtis Byran informed me to complete a job using no problem found code. The reason why Mr. Bryan wanted the job complete it with no problem found code is because it was affecting his team's metrics.
27. About a week later, Mr. Ashcraft messaged me to cancel another job. The reason for the cancellation request is because Supervisor Rusty Mercier did not want his team's metrics affected.

28. Cancelling jobs affect my performance ratings and reflects low productivity because I do not get the production points needed to be more productive.
29. I was terminated for a pretextual reason on or about May 8, 2019.
30. The stated reason for my termination was marking down jobs as complete with no-problem found code when it should have been completed with a fix code.
31. However, I did exactly what a supervisor (Curtis Bryan) had told me to do when instructing me how to complete the jobs.
32. Additionally, other similarly situated employees have done the same thing but were not terminated.
33. The real reason for my termination is race and national origin discrimination and retaliation.
34. I filed an EEOC charge on or about July 18, 2019.
35. I received a Notice of Right to Sue from the EEOC on 3-11-2020.
36. I have exhausted all administrative remedies prior to filing suit.

## **II. CAUSES OF ACTION**

### **A. Race Discrimination in Violation of Title VII and Section 1981.**

37. Plaintiff re-alleges and incorporates the allegations contained in the above paragraphs as if fully stated herein.
38. As described above, Defendant's actions constitute unlawful discrimination on the basis of Plaintiff's race in violation of 42 U.S.C. §2000e-2(a) and 42 U.S.C. § 1981. The employment practices complained of above were intentional.
39. Plaintiff has satisfied all jurisdictional prerequisites in connection with my claims under Title VII and § 1981.

40. As a result of Defendant's unlawful discrimination, Plaintiff has suffered and expects to suffer pecuniary losses, including but not limited to lost wages and other benefits associated with his employment.
41. As a result of Defendant's discrimination, Plaintiff has suffered non-pecuniary losses including, but not limited to emotional pain, suffering, inconvenience, personal humiliation, mental anguish, loss of enjoyment of life, and other non-pecuniary damages.
42. Defendant acted at all relevant times with malice and/or reckless indifference to Plaintiff's federally protected rights. Plaintiff therefore seeks punitive damages under 42 U.S.C. §§ 1981 and 1981a.
43. Additionally, Plaintiff seeks any and all equitable relief necessary.
44. Defendant's actions referenced above have caused Plaintiff to retain the services of the counsel in order to pursue my federal rights in this process. Consequently, Plaintiff seeks attorneys' fees, expert costs, and other costs of suit under 42 U.S.C. § 1981 and 42 U.S.C. § 2000e-5(k).

**B. National Origin Discrimination in Violation of Title VII and Section 1981.**

45. Plaintiff re-alleges and incorporates the allegations contained in the above paragraphs as if fully stated herein.
46. As described above, Defendant's actions constitute unlawful discrimination on the basis of Plaintiff's national origin in violation of 42 U.S.C. §2000e-2(a) and 42 U.S.C. § 1981. The employment practices complained of above were intentional.
47. Plaintiff has satisfied all jurisdictional prerequisites in connection with his claims under Title VII and § 1981.

48. As a result of Defendant's unlawful discrimination, Plaintiff has suffered and expects to suffer pecuniary losses, including but not limited to lost wages and other benefits associated with his employment.

49. As a result of Defendant's discrimination, Plaintiff has suffered non-pecuniary losses including, but not limited to emotional pain, suffering, inconvenience, personal humiliation, mental anguish, loss of enjoyment of life, and other non-pecuniary damages.

50. Defendant acted at all relevant times with malice and/or reckless indifference to Plaintiff's federally protected rights. Plaintiff therefore seeks punitive damages under 42 U.S.C. §§ 1981 and 1981a.

51. Additionally, Plaintiff seeks any and all equitable relief necessary.

52. Defendant's actions referenced above have caused Plaintiff to retain the services of the counsel in order to pursue my federal rights in this process. Consequently, Plaintiff seeks attorneys' fees, expert costs, and other costs of suit under 42 U.S.C. § 1981 and 42 U.S.C. § 2000e-5(k).

**C. Retaliation in Violation of Title VII and Section 1981.**

53. Plaintiff re-alleges and incorporates the allegations contained in the above paragraphs as if fully stated herein.

54. Plaintiff engaged in protected activity when he complained of race discrimination and hostile work environment.

55. Defendant's actions, terminating Plaintiff, were undertaken because of Plaintiff's complaints of discrimination.

56. Defendant's actions were intentional and done with malice or reckless disregard.

57. Because of these actions, Plaintiff suffered damages within the jurisdictional limits of this court.

### **III. JURY DEMAND**

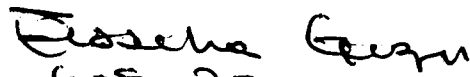
58. I hereby make a demand for a trial by jury on all issues, claims and defenses in this action.

### **IV. PRAYER**

59. WHEREFORE, Plaintiff Fisseha Gezu, respectfully requests that the above-named Defendant be cited to appear in this matter and that, after jury trial by proof, be awarded:

- i. Judgment against Defendant for compensatory damages including emotional pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life;
- ii. Actual damages; and punitive damages;
- iii. Judgment against Defendant for Plaintiff's reasonable attorneys' and experts' fees, and costs of suit;
- iv. Prejudgment and post-judgment interest as allowed by law; and
- v. Such other and further legal and/or equitable relief to which Plaintiff may be justly entitled.

Respectfully submitted,

  
6-8-20

Fisseha Gezu  
5805 Sandhurst Ln Unit A  
Dallas, TX 75206  
214-552-8143  
Fisseha.gezu@att.net

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Fisseha Gezu

## DEFENDANTS

Charter Communications

(b) County of Residence of First Listed Plaintiff Dallas

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Dallas

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

CLERK, U.S. DISTRICT COURT

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                                   |
|---|---------------------------------------|---------------------------------------|
| Citizen of This State   | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 |
| Citizen of Another State                                      | <input type="checkbox"/> 2            | <input type="checkbox"/> 2            |
| Citizen or Subject of a Foreign Country                       | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            |
| Incorporated or Principal Place of Business In This State     | <input checked="" type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5            | <input checked="" type="checkbox"/> 5 |
| Foreign Nation  | <input type="checkbox"/> 6            | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

|   |  |  |  |  |  |
|---|--|--|--|--|--|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other   | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 835 Patent - Abbreviated New Drug Application<br><input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act |
| <input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property  | <input type="checkbox"/> 440 Other Civil Rights<br><input type="checkbox"/> 441 Voting<br><input checked="" type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 448 Education   | <b>Habeas Corpus:</b><br><input type="checkbox"/> 463 Alien Detainee<br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><b>Other:</b><br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement   | <input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Management Relations<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Employee Retirement Income Security Act | <input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DFWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))  | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input type="checkbox"/> 950 Constitutionality of State Statutes  |

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. §2000e-2(a) and 42 U.S.C. § 1981.

Brief description of cause:

an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discrimi

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE